

## **Ratification of Unauthorized Commitments**

"Unauthorized commitment" means an agreement that is not binding solely because the Government representative who made the commitment lacked the authority to enter into that agreement on behalf of the Government.

"Ratification" means the act of approving an unauthorized commitment by an official who has the authority to do so.

### **Approval Authority**

### **Endorsement**

TRADOC CG - over \$100,000

Installation Commander or Commandant

PARC - \$100,000 OR less

Garrison Commander or above

Installation DOC - \$10,000 or less

Garrison Commander

**The Installation Commander or Commandant shall endorse ratification actions in excess of \$100,000 that require approval by the HCS. Ratification actions \$100,000 or less may be endorsed at a lower level, but not lower than the Garrison Commander.**

### **Procedures to Ratify an Unauthorized Commitment**

1. The individual who made the unauthorized commitment shall prepare the below documentation and submit to his/her immediate supervisor a signed statement with the following:
  - a. A description of the related circumstances that led to the unauthorized commitment;
  - b. An explanation of why normal procurement procedures were not followed;
  - c. A description of the bona fide Government requirement that necessitated the unauthorized commitment;
  - d. A description of the benefit received by the Government, and
  - e. All of the relevant documents, to include orders, invoices, or other evidence of transactions;
  - f. Value of commitment;
  - g. Any other pertinent facts.
2. The individual's immediate supervisor endorses and forwards the ratification package through channels to the individual's unit commander/agency head or the senior staff officer designated for this purpose.
3. If the unit commander/agency head or senior staff officer designated for this purpose concurs that ratification of the commitment is necessary, the documentation described above shall be forwarded to the chief of the contracting office along with an endorsement that -
  - a. Verifies the accuracy and completeness of the documentation;
  - b. Describes the measures taken to prevent a recurrence of unauthorized commitments, including a description of any disciplinary action taken or to be taken against the individual.
  - c. Provides a complete purchase description and funding document, such as a DA Form 3953, committing the exact amount of funds required. **The funding document must include a statement that funds were available at the time the unauthorized commitment was made and endorsed by the appropriate budget analyst.**

### **Processing an Unauthorized Commitment for Ratification**

1. Upon receipt of the unauthorized commitment package, the chief of the contracting office assigns it to a contracting officer.
2. The contracting officer shall then proceed as follows:
  - a. Review the case and determine the adequacy of all facts, records and documents furnished and obtain any additional material required; and
  - b. Prepare a summary of facts to include a recommendation as to whether or not the transaction should be ratified and reasons for the recommendation. A recommendation not to ratify should include a recommendation as to whether or not the matter should be processed under FAR Part 50 and DFARS Part 250 as a GAO claim or in some other appropriate way.
  - c. Prepares a letter to the firm involved which states that an unauthorized commitment occurred, that the item or service was provided by the firm without authorization by an individual with the authority to enter into that agreement on behalf of the Government, and that this should not be repeated in the future.
  - d. Verify that sufficient funds are available and were available at the time the unauthorized commitment was made to pay for the acquisition.
  - e. A determination that the price is fair and reasonable.
  - f. Forward the above documentation to the legal advisor through the chief of the contracting office requesting a legal opinion as to whether the acquisition is ratifiable under AFARS 1.602-3, or whether the matter should be processed under FAR 50 and DOD FAR Supplement 250, Extraordinary Contractual Actions, processed as a General Accounting Officer claim, or otherwise handled.
3. The contracting officer shall forward all documentation above through channels to the appropriate approval authority to review.
4. The approval authority shall approve or direct other disposition of the ratification. If approved, the file shall be forwarded to the appropriate contracting office for issuance of an award document for payment purposes.